

### **REMARKS**

Claims 1, 2, 4, 7, 11, 13, 14, 17, 34, 38, 61, 62, 64, 66, 68, and 70 are pending in the application. Claim 1 is amended herein to expedite prosecution and without prejudice to prosecution of the deleted subject matter in a continuation application.

#### **35 U.S.C. § 102 Rejections**

Reconsideration is requested of the rejection of claims 1, 2, 4, 7, 11, 13, 17, 34, and 38 as anticipated by Minter et al. (US 2005/0095466) under 35 U.S.C. § 102(e). The Office asserted in the final Office action and maintained in the Advisory action that Minter et al. disclose

a biofuel cell that includes a biocathode and bioanode that each include the presently recited materials, including electron conductors..., electron mediators..., electrocatalysts..., enzymes..., and enzyme immobilization materials..., such as those with a micellar or reverse micellar structure....<sup>1</sup>

Minter et al. generally describe biocathodes and bioanodes as the Office describes. However, claim 1 is amended to require that the anode and/or the cathode is formed for flow of the fuel fluid therewithin or alternatively that either the anode and/or the cathode comprises a width less than about 200  $\mu\text{m}$  and at least one surface having an irregular, three dimensional topography capable of inducing convective flow of the fuel fluid and/or oxidant over said surface.

Thus, the claimed biofuel cells have an anode and/or a cathode that is formed for flow or has a width less than about 200  $\mu\text{m}$  and at least one surface having an irregular, three dimensional topography. The element of the anode and/or cathode that is formed for flow means that the "electrode has a flow through structure that allows fuel to flow within the microelectrode."<sup>2</sup> Minter et al. do not describe fabrication methods wherein the anode and/or cathode produced has a flow through structure. In fact, disclosed fabrication methods for the anode and/or cathode would not have produced anodes

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<sup>1</sup> See Id. at page 3.

<sup>2</sup> See specification at paragraph [0042]

and/or cathodes having a flow through structure. Thus, while there are many different methods for fabricating anodes and/or cathodes, the anodes and/or cathodes of claim 1 would not *necessarily and inevitably* have been "formed for flow."

Further, Minter et al. do not describe methods for producing an anode and/or a cathode having a width less than about 200  $\mu\text{m}$  and an irregular, three dimensional topography capable of inducing convective flow of the fuel fluid. Minter et al. do not describe fabrication methods wherein the anode and/or cathode produced has a width less than about 200  $\mu\text{m}$  and an irregular, three dimensional topography capable of inducing convective flow of the fuel fluid. In fact, disclosed fabrication methods for the anode and/or cathode would not have produced anodes and/or cathodes having a width less than about 200  $\mu\text{m}$  and an irregular, three dimensional topography capable of inducing convective flow of the fuel fluid. Thus, while there are many different methods for fabricating anodes and/or cathodes, the anodes and/or cathodes of claim 1 would not *necessarily and inevitably* have a width less than about 200  $\mu\text{m}$  and an irregular, three dimensional topography capable of inducing convective flow of the fuel fluid. Further, there are many ways that the anode and/or cathode could have been fabricated (e.g., laid down in layers on the electron conductor) that would have provided an anode and/or cathode not having the required elements of claim 1. Thus, these elements required by claim 1 and the claims that depend therefrom (e.g., claims 2, 4, 7, 11, 13, 17, 34, and 38) are not disclosed explicitly or inherently in the Minter reference. Thus, claims 1, 2, 4, 7, 11, 13, 17, 34, and 38 are not anticipated by Minter et al. under 35 U.S.C. § 102(e).

### **Allowed Subject Matter**

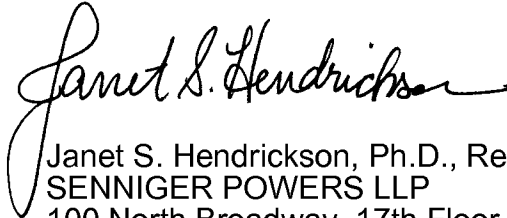
Applicants acknowledge the indication that claims 61, 62, 64, 68, and 70 are allowed. However, applicants believe that the current amendments to the claims along with the arguments render the remaining claims allowable as well.

**CONCLUSION**

Applicants submit that the present application is in condition for allowance and request early allowance of the pending claims.

The Commissioner is hereby authorized to charge any under payment or credit any over payment to Deposit Account No. 19-1345.

Respectfully submitted,

A handwritten signature in black ink, reading "Janet S. Hendrickson", with a stylized flourish at the end.

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